

ARTICLE 02 TAXABLE IN ANOTHER STATE

15 AAC 19.101

TAXABLE IN ANOTHER STATE; IN GENERAL.

(a) A taxpayer is subject to the allocation and apportionment provisions of this chapter if it has income from business activity that is taxable both within and outside of this state. A taxpayer's income from business activity is taxable outside of this state if the taxpayer, by reason of that business activity (i.e., the transactions and activity occurring in the regular course of a particular trade or business), is taxable in another state within the meaning of AS 43.19.010, Article IV.3. A taxpayer is taxable within another state if it meets either one of two tests

(1) if by reason of business activity in another state the taxpayer is subject to one of the types of taxes specified, namely: a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) if by reason of that business activity another state has jurisdiction to subject the taxpayer to a net income tax, regardless of whether the state imposes such a tax on the taxpayer.

(b) A taxpayer is not taxable in another state with respect to a particular trade or business merely because the taxpayer conducts activities in that other state pertaining to the production of nonbusiness income or business activities relating to a separate trade or business.

History -

Eff. 5/24/78, Register 66

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.111

WHEN A TAXPAYER IS "SUBJECT TO" A TAX.

(a) A taxpayer is "subject to" one of the taxes specified in 15 AAC 19.101(a) if it carries on business activity in that state and that state imposes such a tax on that activity. Any taxpayer which asserts that it is subject to one of the taxes specified in [15 AAC 19.101](#) (a) in another state shall furnish to the commissioner of revenue of this state upon his request evidence to support the assertion. The commissioner of revenue may request that the evidence include proof that the taxpayer has filed the requisite tax return in the other state and has paid any taxes imposed under the law of that other state; the taxpayer's failure to produce that proof may be taken into account in determining whether the taxpayer in fact is subject to one of the taxes specified in [AS 43.19.010](#) , Article IV.3.(1) and [15 AAC 19.101](#) (a) in the other state.

(b) If the taxpayer voluntarily files and pays one or more of those taxes when not required to do so by the laws of that state or pays a minimal fee for qualification, organization or for the privilege of doing business in that state, but (1) does not actually engage in business activity in that state, or (2) does actually engage in some business activity, not sufficient for nexus, and the minimum tax bears no relation to the taxpayer's business activity within such state, the taxpayer is not "subject to" one of the taxes specified in AS 43.19.010, Article IV.3.(1) and [15 AAC 19.101](#) (a).

(c) The concept of taxability in another state is based on the premise that every state in which the taxpayer is engaged in business activity may impose an income tax even though every state does not do so. In states which do not, other types of taxes may be imposed as a substitute for an income tax. Therefore, only those taxes enumerated in [AS 43.19.010](#), Article IV.3.(1) and [15 AAC 19.101](#) (a) which may be considered as basically revenue-raising rather than regulatory measures shall be considered in determining whether the taxpayer is "subject to" one of the taxes specified in [AS 43.19.010](#), Article IV.3.(1) and 15 AAC 19.101(a) in another state.

History -

Eff. 5/24/78, Register 66; am 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.121

WHEN A STATE HAS JURISDICTION TO SUBJECT A TAXPAYER TO A NET INCOME TAX.

The second test, that of the state having jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not, applies if the taxpayer's business activity is sufficient to give the state jurisdiction to impose a net income tax by reason of such business activity under the Constitution and statutes of the United States. Jurisdiction to tax is not present where the state is prohibited from imposing the tax by reason of the provisions of Public Law 86-272, 15 U.S.C.A. Section 381-385. In the case of any "state" as defined in [AS 43.19.010](#), Article IV.1.(h), other than a state of the United States or political subdivision of such a state, the determination of whether that "state" has jurisdiction to subject the taxpayer to a net income tax shall be made as though the jurisdictional standards applicable to a state of the United States applied in that "state." If jurisdiction is otherwise present, the "state" is not considered as without jurisdiction by reason of the provisions of a treaty between the state and the United States.

History -

Eff. 5/24/78, Register 66; am 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

ARTICLE 03

APPORTIONMENT FORMULA

15 AAC 19.131

APPORTIONMENT FORMULA.

All business income of each trade or business of the taxpayer shall be apportioned to this state by use of the apportionment formula set forth in [AS 43.19.010](#) , Article IV.9. The elements of the apportionment formula are the property factor (see [15 AAC 19.141](#) - [15 AAC 19.202](#)), the payroll factor (see [15 AAC 19.211](#) - [15 AAC 19.241](#)), and the sales factor (see [15 AAC 19.251](#) - [15 AAC 19.302](#)), of the trade or business of the taxpayer.

History -

Eff. 5/24/78, Register 66

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

ARTICLE 04

PROPERTY FACTOR

15 AAC 19.141

PROPERTY FACTOR IN GENERAL.

(a) The property factor of the apportionment formula for each trade or business of the taxpayer must include all real and tangible personal property owned or rented by the taxpayer and used during the tax period in the regular course of that trade or business. The term "real and tangible personal property" includes land, buildings, machinery, stocks of goods, equipment, and other real and tangible personal property but does not include coin or currency.

(b) Property used in connection with the production of nonbusiness income must be excluded from the property factor. Property used both in the regular course of taxpayer's trade or business and in the production of nonbusiness income must be included in the factor only to the extent the property is used in the regular course of taxpayer's trade or business. The method of determining that portion of the value to be included in the factor will depend upon the facts of each case.

(c) The property factor must include the average value of property includable in the factor.
See [15 AAC 19.201](#) .

History -

Eff. 5/24/78, Register 66

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.151

PROPERTY USED FOR THE PRODUCTION OF BUSINESS INCOME.

(a) Property must be included in the property factor if it is actually used or is available for or capable of being used during the tax period in the regular course of the trade or business of the taxpayer. Property held as reserves or standby facilities or property held as a reserve source of materials must be included in the factor. For example, a plant temporarily idle and raw material reserves not currently being processed are includable in the factor.

(b) Property or equipment under construction during the tax period (except inventoriable goods in process) must be excluded from the factor until that property is actually used in the regular course of the trade or business of the taxpayer. If the property is partially used in the regular course of the trade or business of the taxpayer while under construction, the value of the property to the extent used must be included in the property factor.

(c) Property used in the regular course of the trade or business of the taxpayer must remain in the property factor until its permanent withdrawal is established by an identifiable event such as its conversion to the production of nonbusiness income, its sale, or the lapse of an extended period of time (normally, five years) during which the property is held for sale.

History -

Eff. 5/24/78, Register 66; am 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.161

CONSISTENCY IN REPORTING.

(a) In filing returns with this state, if the taxpayer departs from or modifies the manner of

valuing property or of excluding or including property in the property factor used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(b) If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under Article IV of the Multistate Tax Compact or the Uniform Division of Income for Tax Purposes Act are not uniform in the valuation of property and in the exclusion or inclusion of property in the property factor, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

History -

Eff. 5/24/78, Register 66

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.171

NUMERATOR.

(a) The numerator of the property factor must include the average value of the real and tangible personal property owned or rented by the taxpayer and used in this state during the tax period in the regular course of the trade or business of the taxpayer.

(b) Property in transit between locations of the taxpayer to which it belongs must be considered to be at the destination for purposes of the property factor. Property in transit between a buyer and seller which is included by a taxpayer in the denominator of its property factor in accordance with its regular accounting practices must be included in the numerator according to the state of destination.

(c) The value of mobile or movable property such as construction equipment, trucks or leased electronic equipment which is located within and outside of this state during the tax period must be determined for purposes of the numerator of the factor on the basis of total time within the state during the tax period.

(d) An automobile assigned to a traveling employee must be included in the numerator of the factor of the state to which the employee's compensation is assigned under the payroll factor or in the numerator of the state in which the automobile is licensed.

History -

Eff. 5/24/78, Register 66

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.181

VALUATION OF OWNED PROPERTY.

(a) Property owned by the taxpayer must be valued at its original cost. As a general rule, "original cost" is considered to be the basis of the property for federal income tax purposes (before any federal adjustments) at the time of acquisition by the taxpayer and adjusted by subsequent capital additions or improvements to it and partial disposition of it by reason of sale, exchange, abandonment, etc.

(b) If the original cost of property is unascertainable, the property must be included in the factor at its fair market value as of the date of acquisition by the taxpayer.

(c) Inventory of stock of goods must be included in the factor in accordance with the valuation method used for federal income tax purposes.

(d) Property acquired by gift or inheritance must be included in the factor at its basis for determining depreciation for federal income tax purposes.

History -

Eff. 5/24/78, Register 66; am 3/31/82, Register 81

Authority -

[AS 43.05.080](#)[AS 43.19.010](#)

15 AAC 19.191

VALUATION OF RENTED PROPERTY.

(a) Property rented by the taxpayer must be valued at eight times its net annual rental rate. The net annual rental rate for any item of rented property is the annual rental rate paid by the taxpayer for that property, less the aggregate annual subrental rates paid by subtenants of the taxpayer. (See [15 AAC 19.202](#) for special rules where the use of that net annual rental rate produces a negative or clearly inaccurate value or where property is used by the taxpayer at no charge or rented at a nominal rental rate.)

(b) Subrents are not deducted when the subrents constitute business income because the property which produces the subrents is used in the regular course of a trade or business of the taxpayer when it is producing that income. Accordingly, there is no reduction in its value.

(c) "Annual rental rate" is the amount paid as rental for property for a 12-month period (i.e., the amount of the annual rent). Where property is rented for less than a 12-month period, the rent paid for the actual period of rental constitutes the "annual rental rate" for the tax period. However, where a taxpayer has rented property for a term of 12 or more months and the

current tax period covers a period of less than 12 months (due, for example, to a reorganization or change of accounting period), the rent paid for the short tax period must be annualized. If the rental term is for less than 12 months, the rent may not be annualized beyond its term. Rent may not be annualized because of the uncertain duration when the rental term is on a month-to-month basis.

(d) "Annual rent" is the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer or for its benefit for use of the property and includes

(1) any amount payable for the use of real or tangible personal property, or any part of it, whether designated as a fixed sum of money or as a percentage of sales, profits, or otherwise;

(2) any amount payable as additional rent or in lieu of rents, such as interest, taxes, insurance, repairs or any other items which are required to be paid by the terms of the lease or other arrangement, not including amounts paid as service charges, such as utilities, janitor services, etc.; if a payment includes rent and other charges unsegregated, the amount of rent shall be determined by consideration of the relative values of the rent and the other items.

(e) "Annual rent" includes lease bonuses which are to be added to both the numerator and denominator of the property factor, but are not to be capitalized at eight times the lease bonus amount. "Lease bonus" means payments made to acquire an interest in a lease or sublease and includes cash bonuses, advance royalties and other lease acquisition payments.

(f) Leasehold improvements must, for the purposes of the property factor, be treated as property owned by the taxpayer regardless of whether the taxpayer is entitled to remove the improvements or the improvements revert to the lessor upon expiration of the lease. Hence, the original cost of leasehold improvements must be included in the factor.

History -

Eff. 5/24/78, Register 66; am 3/31/82, Register 81; am 4/14/82, Register 82

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.201

AVERAGING PROPERTY VALUES.

As a general rule, the average value of property owned by the taxpayer shall be determined by averaging the values at the beginning and ending of the tax period. However, the commissioner will, in his discretion, require or allow averaging by monthly values if that method of averaging is required to properly reflect the average value of the taxpayer's property for the tax period. Averaging by monthly values will generally be applied if substantial fluctuations in the values of the property exist during the tax period or where property is acquired after the beginning of the tax period or disposed of before the end of the tax period. Averaging with respect to rented property is achieved automatically by the method of determining the net

annual rental rate of that property as set out in [15 AAC 19.181](#) and [15 AAC 19.191](#) .

History -

Eff. 5/24/78, Register 66; am 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.202

SPECIAL RULES.

(a) If the subrents taken into account in determining the net annual rental rate under [15 AAC 19.191](#) produce a negative or clearly inaccurate value for any item of property, another method which will properly reflect the value of rented property may be required by the commissioner of revenue or requested by the taxpayer. In no case, however, may that value be less than an amount which bears the same ratio to the annual rental rate paid by the taxpayer for such property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property.

(b) If property owned by others is used by the taxpayer at no charge or rented by the taxpayer for a nominal rate, the net annual rental rate for that property must be determined on the basis of a reasonable market rental rate for that property.

History -

Eff. 5/24/78, Register 66; am 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

ARTICLE 05

PAYROLL FACTOR

15 AAC 19.211

PAYROLL FACTOR IN GENERAL.

(a) The payroll factor of the apportionment formula for each trade or business of the taxpayer must include the total amount paid by the taxpayer in the regular course of its trade or business for compensation during the tax period.

(b) The total amount "paid" to employees is determined upon the basis of the taxpayer's accounting method. If the taxpayer has adopted the accrual method of accounting, all compensation properly accrued is considered to have been paid. Notwithstanding the taxpayer's method of accounting, at the election of the taxpayer, compensation paid to employees may be included in the payroll factor by use of the cash method if the taxpayer is required to report that compensation under that method for unemployment compensation purposes.

(c) The compensation of any employee on account of activities which are connected with the production of nonbusiness income must be excluded from the factor.

(d) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classifiable as an employee are excluded. Only amounts paid directly to employees are included in the payroll factor. Amounts considered paid directly include the value of board, rent, housing, lodging, and other benefits or services furnished to employees by the taxpayer in return for personal services if those amounts constitute income to the recipient under the federal Internal Revenue Code. In the case of employees not subject to the federal Internal Revenue Code, e.g., those employed in foreign countries, the determination of whether those benefits or services would constitute income to the employees must be made as though those employees were subject to the federal Internal Revenue Code.

(e) "Employee" means (1) any officer of a corporation; or (2) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee. Generally, a person will be considered to be an employee if he is included by the taxpayer as an employee for purposes of the payroll taxes imposed by the Federal Insurance Contributions Act; except that, since certain individuals are included within the term "employees" in the Federal Insurance Contributions Act who would not be employees under the usual common-law rules, it may be established that a person who is included as an employee for purposes of the Federal Insurance Contributions Act is not an employee for purposes of this section.

(f) In filing returns with this state, if the taxpayer departs from or modifies the treatment of compensation paid, used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(g) If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under the Multistate Tax Compact or the Uniform Division of Income for Tax Purposes Act are not uniform in the treatment of compensation paid, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

History -

Eff. 5/24/78, Register 66; am 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.221

DENOMINATOR.

The denominator of the payroll factor is the total compensation paid everywhere during the tax period. Accordingly, compensation paid to employees whose services are performed entirely in a state where the taxpayer is immune from taxation, for example, by Public Law 86 -272, is included in the denominator of the payroll factor.

History -

Eff. 5/24/78, Register 66; am 3/31/82, Register 81

Authority -

[AS 43.05.080](#)[AS 43.19.010](#)

15 AAC 19.231

NUMERATOR.

The numerator of the payroll factor is the total amount paid in this state during the tax period by the taxpayer for compensation. The tests in [AS 43.19.010](#) , Article IV.14, to be applied in determining whether compensation is paid in this state, are derived from the Model Unemployment Compensation Act. Accordingly, if compensation paid to employees is included in the payroll factor by use of the cash method of accounting or if the taxpayer is required to report such compensation under such method for unemployment compensation purposes, it shall be presumed that the total wages reported by the taxpayer to this state for unemployment compensation purposes constitutes compensation paid in this state except for compensation excluded under [15 AAC 19.211](#) - [15 AAC 19.241](#) . The presumption may be overcome by satisfactory evidence that an employee's compensation is not properly reportable to this state for unemployment compensation purposes.

History -

Eff. 5/24/78, Register 66

Authority -

[AS 43.05.080](#)[AS 43.19.010](#)

15 AAC 19.241

COMPENSATION PAID IN THIS STATE.

(a) Compensation is paid in this state if any one of the following tests, applied consecutively, is met:

(1) the employee's service is performed entirely within this state;

(2) the employee's service is performed both within and outside of the state, but the service performed outside of the state is incidental to the employee's service within the state; "incidental" means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction;

(3) if the employee's services are performed both within and outside of this state, the employee's compensation will be attributed to this state

(A) if the employee's base of operation is in this state; or

(B) if there is no base of operations in any state in which some part of the service is performed, but the place from which the service is directed or controlled is in this state; or

(C) if the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed but the employee's residence is in this state.

(b) As used in this section

(1) "base of operations" means the place of more-or-less permanent nature from which the employee starts his work and to which he customarily returns in order to receive instructions from the taxpayer or communications from his customers or other persons or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of his trade or profession at some other point or points;

(2) "place from which the service is directed or controlled" means the place from which the power to direct or control is exercised by the taxpayer.

History -

Eff. 5/24/78, Register 66

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

ARTICLE 06

SALES FACTOR

15 AAC 19.251

SALES FACTOR IN GENERAL.

(a) [AS 43.19.010](#) , Article IV.1.(g), defines the term "sales" to mean all gross receipts of the taxpayer not allocated under [AS 43.19.010](#) , Article IV.5 to IV.8. Thus, for the purposes of the sales factor of the apportionment formula for each trade or business of the taxpayer, the term "sales" means all gross receipts derived by the taxpayer from transactions and activity in the regular course of that trade or business. The following are rules for determining "sales" in various situations:

(1) In the case of a taxpayer engaged in manufacturing and selling or purchasing and reselling goods or products, "sales" includes all gross receipts from the sales of those goods or products (or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the tax period) held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. "Gross receipts," for this purpose, means gross sales, less returns and allowances, and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to those sales. Federal and state excise taxes (including sales taxes) must be included as part of those receipts if those taxes are passed on to the buyer or included as part of the selling price of the product.

(2) In the case of cost-plus-fixed-fee contracts, such as the operation of a government-owned plant for a fee, "sales" includes the entire reimbursed cost, plus the fee.

(3) In the case of a taxpayer engaged in providing services, such as the operation of an advertising agency, or the performance of equipment service contracts, research and development contracts, "sales" includes the gross receipts from the performance of those services including fees, commissions, and similar items.

(4) In the case of a taxpayer engaged in renting real or tangible property, "sales" includes the gross receipts from the rental, lease, or licensing the use of the property.

(5) In the case of a taxpayer engaged in the sale, assignment, or licensing of intangible personal property such as patents and copyrights, "sales" includes the gross receipts from them.

(6) If a taxpayer derives receipts from the sale of equipment used in its business, those receipts constitute "sales." For example, a truck express company owns a fleet of trucks and sells its trucks under a regular replacement program. The gross receipts from the sales of the trucks are included in the sales factor.

(b) In some cases, certain gross receipts should be disregarded in determining the sales factor in order that the apportionment formula will operate fairly to apportion to this state the income of the taxpayer's trade or business. See [15 AAC 19.302](#) .

(c) In filing returns with this state, if the taxpayer departs from or modifies the basis for excluding or including gross receipts in the sales factor used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(d) If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under Article IV of the Multistate Tax Compact or the Uniform Division of Income for Tax Purposes Act are not uniform in the inclusion or exclusion of gross receipts, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

History -

Eff. 5/24/78, Register 66

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.261

DENOMINATOR.

The denominator of the sales factor must include the total gross receipts derived by the taxpayer from transactions and activity in the regular course of its trade or business, except receipts excluded under [15 AAC 19.302](#) .

History -

Eff. 5/24/78, Register 66

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.271

NUMERATOR.

The numerator of the sales factor must include gross receipts attributable to this state and derived by the taxpayer from transactions and activity in the regular course of its trade or business. All interest income, service charges, carrying charges, or time-price differential charges incidental to those gross receipts shall be included regardless of

(1) the place where the accounting records are maintained; or

(2) the location of the contractor or other evidence of indebtedness.

History -

Eff. 5/24/78, Register 66

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.281

SALES OF TANGIBLE PERSONAL PROPERTY IN THIS STATE.

(a) Gross receipts from sales of tangible personal property (except sales to the United States government as defined in [15 AAC 19.291](#)) are in this state

(1) if the property is delivered or shipped to a purchaser within this state regardless of the f.o.b. point or other conditions of sale; or

(2) if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the taxpayer is not taxable in the state of the purchaser.

(b) Property is considered to be delivered or shipped to a purchaser within this state if the recipient is located in this state, even though the property is ordered from outside this state.

(c) Property is delivered or shipped to a purchaser within this state if the shipment terminates in this state, even though the property is subsequently transferred by the purchaser to another state.

(d) The term "purchaser within this state" includes the ultimate recipient of the property if the taxpayer in this state, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this state.

(e) When property being shipped by a seller from the state of origin to a consignee in another state is diverted while enroute to a purchaser in this state, the sales are in this state.

(f) If the taxpayer is not taxable in the state of the purchaser, the sale is attributed to this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state.

(g) If a taxpayer whose salesman operates from an office located in this state makes a sale to a purchaser in another state in which the taxpayer is not taxable and the property is shipped directly by a third party to the purchaser, the following rules apply:

(1) if the taxpayer is taxable in the state from which the third party ships the property, then the sale is in that state;

(2) if the taxpayer is not taxable in the state from which the property is shipped, then the sale is in this state.

History -

Eff. 5/24/78, Register 66; am 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.291

SALES OF TANGIBLE PERSONAL PROPERTY TO THE UNITED STATES GOVERNMENT IN THIS STATE.

Gross receipts from sales of tangible personal property to the United States government are in this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state. For the purpose of this section, only sales for which the United States government makes direct payment to the seller under the terms of a contract constitute sales to the United States government. Thus, as a general rule, sales by a subcontractor to the prime contractor, the party to the contract with the United States government, do not constitute sales to the United States government.

History -

Eff. 5/24/78, Register 66; am 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.301

SALES OTHER THAN SALES OF TANGIBLE PERSONAL PROPERTY IN THIS STATE.

(a) In General. [AS 43.19.010](#) , Article IV.17, provides for the inclusion in the numerator of the sales factor, gross receipts from transactions other than sales of tangible personal property (including transactions with the United States government); under this section gross receipts are attributed to this state if the income-producing activity which gave rise to the receipts is performed wholly within this state. Also, gross receipts are attributed to this state if, with respect to a particular item of income, the income-producing activity is performed within and outside of this state but the greater proportion of the income-producing activity is performed in this state, based on costs of performance.

(b) Income-Producing Activity Defined. The term "income-producing activity" applies to each separate item of income and means the transactions and activity directly engaged in by the taxpayer in the regular course of its trade or business for the ultimate purpose of obtaining gains or profit. Such activity does not include transactions and activities performed on behalf of a taxpayer, such as those conducted on its behalf by an independent contractor. Accordingly, income-producing activity includes, but is not limited to, the following:

(1) rendering personal services by employees or the use of tangible and intangible property by the taxpayer in performing a service;

(2) selling, renting, leasing, licensing or other use of real property;

(3) renting, leasing, licensing, or other use of tangible personal property; or

(4) selling, licensing, or other use of intangible personal property; except that merely holding intangible personal property is not, of itself, an income-producing activity.

(c) **Costs of Performance Defined.** The term "cost of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the trade or business of the taxpayer.

(d) **Application.**

(1) **In General.** Receipts (other than from sales of tangible personal property) in respect to a particular income-producing activity are in this state if

(A) the income-producing activity is performed wholly within the state; or

(B) the income-producing activity is performed both within and outside of this state and the proportion of the income-producing activity performed in this state is greater than in any other state, based on costs of performance.

(2) **Special Rules.** The following are special rules for determining when receipts from the income-producing activities described below are in this state:

(A) Gross receipts from the sales, lease, rental or licensing of real property are in this state if the real property is located in this state.

(B) Gross receipts from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state. Renting, leasing, licensing, or other use of tangible personal property in this state is a separate income-producing activity from renting, leasing, licensing, or other use of the same property while located in another state; consequently, if property is within and outside of this state during the rental, lease, or licensing period, gross receipts attributable to this state must be measured by the ratio which the time the property was physically present or was used in this state bears to the total time or use of the property everywhere during that period.

(C) Gross receipts for the performance of personal services are attributable to this state to the extent those services are performed in this state. If services relating to a single item of income are performed partly within and partly outside of this state, the gross receipts for the performance of those services are attributable to this state only if a greater portion of the services was performed in this state, based on costs of performance. Usually, where services are performed partly within and partly outside of this state the services performed in each state will constitute a separate income-producing activity; in such a case, the gross receipts for the performance of services attributable to this state must be measured by the ratio which the time spent in performing those services in this state bears to the total time spent in performing those services everywhere. Time spent in performing services includes the amount of time

expended in the performance of a contract or other obligation which gives rise to those gross receipts. Personal service not directly connected with the performance of the contract or other obligation is excluded from the computations.

History -

Eff. 5/24/78, Register 66; am 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.302

SPECIAL RULE.

(a) Where substantial amounts of gross receipts arise from an incidental or occasional sale of a fixed asset used in the regular course of the taxpayer's trade or business, those gross receipts must be excluded from the sales factor. For example, gross receipts from the sale of a factory or plant will be excluded.

(b) Insubstantial amounts of gross receipts arising from incidental or occasional transactions or activities may be excluded from the sales factor unless that exclusion would materially affect the amount of income apportioned to this state. For example, the taxpayer ordinarily may include or exclude from the sales factor gross receipts from such transactions as the sale of office furniture, business automobiles, etc.

(c) Where the income-producing activity in respect to business income from intangible personal property can be readily identified, that income is included in the denominator of the sales factor and, if the income-producing activity occurs in this state, in the numerator of the sales factor as well. For example, usually the income-producing activity can be readily identified in respect to interest income received on deferred payments on sales of tangible property (15 AAC 19.251(a)(1)) and income from the sale, licensing or other use of intangible personal property (15 AAC 19.301(b)(4)).

(d) Where business income from intangible property cannot readily be attributed to any particular income-producing activity of the taxpayer, that income cannot be assigned to the numerator of the sales factor for any state and must be excluded from the denominator of the sales factor. For example, where business income in the form of dividends received on stock, royalties received on patents or copyrights, or interest received on bonds, debentures or government securities results from the mere holding of the intangible personal property by the taxpayer, those dividends and that interest must be excluded from the denominator of the sales factor.

History -

Eff. 5/24/78, Register 66

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

ARTICLE 07

GENERAL PROVISIONS

15 AAC 19.900

DEFINITIONS.

Unless the context otherwise requires, in this chapter

(1) "allocation" refers to the assignment of nonbusiness income to a particular state;

(2) "apportionment" refers to the division of business income between states by the use of a formula containing apportionment factors;

(3) "business activity" refers to the transactions and activity occurring in the regular course of a particular trade or business of a taxpayer;

(4) "taxpayer" means any natural person, corporation, partnership, firm, association, or governmental unit or agency acting as a business entity in this state.

History -

Eff. 5/24/78, Register 66

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

15 AAC 19.9010

BUSINESS AND NONBUSINESS INCOME DEFINED

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9020

BUSINESS AND NONBUSINESS INCOME - APPLICATION OF DEFINITIONS

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9030

PRORATION OF DEDUCTIONS

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9040

APPORTIONMENT AND ALLOCATION OF INCOME GENERALLY

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9050

DEFINITION OF TAXPAYER

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9060

APPLICATION OF [AS 43.19.010](#) , ARTICLE IV

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9070

TAXABLE IN ANOTHER STATE - IN GENERAL

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9080

TAXABLE IN ANOTHER STATE - WHEN A CORPORATION IS ""SUBJECT TO" A TAX UNDER [AS 43.19.010](#) , ARTICLE IV.3.(1)

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9090

TAXABLE IN ANOTHER STATE - WHEN A STATE HAS JURISDICTION TO SUBJECT TO
TAXPAYER TO A NET INCOME TAX

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9100

PROPERTY FACTOR - IN GENERAL

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9110

PROPERTY FACTOR - CONSISTENCY IN REPORTING

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9120

PROPERTY FACTOR - NUMERATOR

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9130

PROPERTY FACTOR - VALUATION OF OWNED PROPERTY

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9140

RENTED PROPERTY

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9150

AVERAGING PROPERTY VALUES

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9160

PAYROLL FACTOR - IN GENERAL

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9170

PAYROLL FACTOR - NUMERATOR

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9180

WHAT IS COMPENSATION?

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9190

PAYROLL FACTOR - WHAT IS AN INDIVIDUAL?

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9200

PAYROLL FACTOR - WHAT IS COMPENSATION PAID IN THIS STATE?

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9210

SALES FACTOR - SALES MADE IN GENERAL BUSINESS OPERATIONS

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9220

SALES FACTOR - CONSISTENCY IN REPORTING

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9230

SALES FACTOR - SALES MADE IN OTHER TYPES OF BUSINESS ACTIVITY

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9240

SALES FACTOR - NUMERATOR

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9250

WHAT SALES OF TANGIBLE PERSONAL PROPERTY ARE IN THIS STATE?

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9260

SALES TO UNITED STATES GOVERNMENT

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9270

SALES OTHER THAN SALES OF TANGIBLE PERSONAL PROPERTY

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9280

INCOME-PRODUCING ACTIVITY DEFINED

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9290

COST OF PERFORMANCE - DEFINED

Repealed or Renumbered

Repealed 5/24/78.

15 AAC 19.9300

SALES FACTOR APPLICATION

Repealed or Renumbered

Repealed 5/24/78.

ARTICLE 08

SPECIAL RULES: AIRLINES

15 AAC 19.1100

AIRLINES IN GENERAL.

If an airline has income from sources both within and outside this state, the amount of business income from sources within this state must be determined in accordance with [15 AAC 19.1100](#) - [15 AAC 19.1190](#) . In such cases, the first step is to determine which portion of the airline's income constitutes "business" income and which portion constitutes "nonbusiness" income under [AS 43.19.010](#) , Article IV.1 and under [15 AAC 19.011](#) and [15 AAC 19.031](#) . Nonbusiness income is directly allocable to specific states under the provisions of [AS 43.19.010](#) , Article IV.5 - .8. Business income is apportioned among the states in which the business is conducted in accordance with the property, payroll and sales apportionment factors set out in this chapter. The sum of (1) the items of nonbusiness income directly

allocated to this state, plus (2) the amounts of business income attributable to this state constitutes the amount of the taxpayer's entire net income which is subject to tax by this state.

History -

Eff. 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.071](#) (b)

15 AAC 19.1110

APPORTIONMENT OF BUSINESS INCOME.

(a) Property Factor.

(1) The property factor includes the value of all owned and rented aircraft. The use of the taxpayer's owned or rented aircraft in an exchange program with another air carrier does not constitute a rental or subrental, whichever the case may be, of that aircraft by the airline to the other participating airline. That aircraft must be accounted for in the property factor of the taxpayer. Engines, parts, and other expendables, including parts for use in contract overhaul work, will be valued at cost. Landing fees do not constitute rentals in the valuation of property used or rented during the income year.

(2) The denominator of the property factor is the average value of all of the taxpayer's real and tangible personal property owned or rented and used during the income year. The numerator of the property factor is the average value of the taxpayer's real and tangible personal property owned or rented and used in the state during the income year. In determining the numerator of the property factor, all property except aircraft ready for flight, including all attached equipment, must be included in the numerator of the property factor in accordance with [AS 43.19.010](#), Article IV.10 - .12, and [15 AAC 19.171](#). Aircraft ready for flight must be included in the numerator of the property factor in the ratio that ground time (hours) of that aircraft in this state bears to the ground time (hours) of that aircraft everywhere, as defined in [15 AAC 19.1190](#).

(b) The Payroll Factor. The denominator of the payroll factor is the total compensation paid everywhere by the taxpayer during the income year. (See [AS 43.19.010](#), Article IV.13 - .14 and [15 AAC 19.211](#) - 15 AAC 19.241.) The numerator of the payroll factor is the total amount paid in this state during the income year by the taxpayer for compensation. With respect to nonflight personnel, compensations paid to those employees must be included in the numerator as provided in AS 43.19.010, Article IV.13 - .14, and [15 AAC 19.231](#) and [15 AAC 19.241](#). With respect to flight personnel (the air crew aboard an aircraft assisting in the operation of the aircraft or the welfare of passengers while in the air), compensation paid to those employees must be included in the ratio that ground time in this state bears to total ground time as defined in [15 AAC 19.1190](#).

(c) Sales Factor. All revenue derived from transactions and activities in the regular course of the trade or business of the taxpayer which produces business income is included in the denominator of the sales factor. (See [AS 43.19.010](#) , Article IV.1 and [15 AAC 19.011](#) , 15 AAC 19.031, and [15 AAC 19.251](#) .) The numerator of the sales factor is the total revenue of the taxpayer in this state during the income year. With respect to nonflight revenue, the revenue is in this state in accordance with the provisions of [AS 43.19.010](#) , Article IV.16 and .17, and [15 AAC 19.271](#) , [15 AAC 19.281](#) , [15 AAC 19.291](#) , and [15 AAC 19.301](#) . With respect to flight revenue, the total revenue of the taxpayer in this state during the income year is the ratio that ground time in this state bears to total ground time as defined in [15 AAC 19.1190](#) .

History -

Eff. 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.071](#) (b)

15 AAC 19.1120

RECORDS.

The taxpayer must maintain the records necessary to arrive at "ground time" as defined in [15 AAC 19.1190](#) , which records are subject to review by the department.

History -

Eff. 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.071](#) (b)

15 AAC 19.1190

DEFINITIONS FOR [15 AAC 19.1100](#) - [15 AAC 19.1190](#) .

(a) "Ground time" for air carriers means all time spent on the ground while loading and unloading passengers, freight, mail, or operating supplies, or during refueling operations, and does not include periods when the aircraft is

(1) not being loaded or unloaded;

(2) not in service; or

(3) idle due to strikes, repairs and maintenance, downshifts, or seasonal reduction of service.

(b) For the purposes of computing "ground time," it is presumed that there is one hour of ground time for each departure unless the taxpayer provides evidence acceptable to the department which rebuts that presumption.

(c) The "value" of owned real and tangible personal property means its initial federal tax basis, plus the cost of capital improvements to that property. (See [AS 43.19.010](#) , Article IV.11, and [15 AAC 19.180](#) .)

(d) "Average value" of property means the amount determined by averaging the values at the beginning and ending of the income year; however, the commissioner will, in his discretion, require the averaging of monthly values during the income year if that averaging is necessary to reflect properly the average value of the airline's property. (See [AS 43.19.010](#) , Article IV.12 and [15 AAC 19.201](#) .)

(e) The "value" of rented real and tangible personal property means the product of eight times the net annual rental rate. (See AS 43.19.010, Article IV.11, and [15 AAC 19.191](#) .)

(f) "Net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(g) "Property used during the income year" includes property which is available for use in the taxpayer's trade or business during the income year.

(h) "Aircraft ready for flight" means aircraft owned or acquired through rental or lease (but not interchange) which are in the possession of the taxpayer and are available for use on the taxpayer's routes.

History -

Eff. 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.071](#) (b)

ARTICLE 09

SPECIAL RULES: LAND TRANSPORTATION CARRIERS

15 AAC 19.1200

LAND TRANSPORTATION CARRIERS IN GENERAL.

If a land transportation carrier has income from sources both within and outside this state, the amount of business income from sources within this state must be determined in accordance with [15 AAC 19.1200](#) - [15 AAC 19.1290](#) . In such cases, the first step is to determine which portion of the land transportation carriers' income constitutes "business" income and which portion constitutes "nonbusiness" income under [AS 43.19.010](#) , Article IV.1, and under [15 AAC 19.011](#) and 15 AAC 19.031. Nonbusiness income is directly allocable to specific states in accordance with the provisions of [AS 43.19.010](#) , Article IV.5 - .8. Business income is apportioned among the states in which the business is conducted in accordance with the property, payroll, and sales apportionment factors set out in [15 AAC 19.1210](#) . The sum of (1) the items of nonbusiness income directly allocated to this state, plus (2) the amount of business income attributable to this state constitutes the amount of the taxpayer's entire net income which is subject to tax by this state.

History -

Eff. 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.071](#) (b)

15 AAC 19.1210

APPORTIONMENT OF BUSINESS INCOME.

(a) Property Factor.

(1) The denominator of the property factor is the average value of all of the taxpayer's real and tangible personal property owned or rented and used during the income year.

(2) The numerator of the property factor is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the income year. In determining the numerator of the property factor, all property except interstate mobile transportation equipment must be included in the numerator of the property factor in accordance with [AS 43.19.010](#) , Article IV.10 - .12, and [15 AAC 19.171](#) .

(3) The Alaska portion of interstate mobile transportation equipment for inclusion in the numerator must be determined by multiplying the total interstate mobile transportation equipment by the terminal days ratio.

(b) Payroll Factor.

(1) The denominator of the payroll factor is the total compensation paid everywhere by the taxpayer during the income year. (See AS 43.19.010, Article IV.13 - .14 and [15 AAC 19.211](#) - [15 AAC 19.241](#) .)

(2) The numerator of the payroll factor is the total amount paid in this state during the income year by the taxpayer for compensation. With respect to employees assigned to fixed locations, compensation paid to those employees must be included in the numerator as provided in [AS 43.19.010](#) , Article IV.13 - .14, and [15 AAC 19.231](#) and 15 AAC 19.241. With respect to the wages of personnel assigned to interstate mobile transportation equipment, the Alaska portion of those wages must be determined by multiplying the total wages of interstate personnel by the terminal days ratio.

(c) Sales Factor.

(1) The denominator of the sales factor equals all revenue derived from transactions and activities in the regular course of the trade or business of the taxpayer which produces business income. (See AS 43.19.010, Article IV.1, and [15 AAC 19.011](#) , [15 AAC 19.031](#) , and 15 AAC 19.251.)

(2) The numerator of the revenue factor is the total revenue of the taxpayer in this state during the income year. The total revenue of the taxpayer in this state during the income year is the sum of the intrastate revenues and the Alaska portion of interstate revenues, determined by multiplying the total interstate revenues by the terminal days ratio.

History -

Eff. 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.071](#) (b)

15 AAC 19.1220

RECORDS.

The taxpayer must maintain the records necessary to arrive at "days spent in terminals" as defined in [15 AAC 19.1290](#) , which records are subject to review by the department.

History -

Eff. 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.071](#) (b)

15 AAC 19.1290

DEFINITIONS FOR [15 AAC 19.1200](#) - [15 AAC 19.1290](#) .

In [15 AAC 19.1200](#) - [15 AAC 19.1290](#)

(1) "terminal" means any location where goods transported are loaded on or unloaded from interstate mobile transportation equipment;

(2) "days spent in terminals" refers to hours spent in terminals by mobile transportation equipment, and is computed by dividing the total number of hours by 24; time spent in terminals does not include periods when the interstate mobile transportation equipment is (A) not being loaded or unloaded; (B) not in service; or (C) idle due to strikes, repairs and maintenance, downshifts, or seasonal reduction of service; for purposes of computing "days spent in terminals," it is presumed that equal time is spent loading and unloading unless the taxpayer provides acceptable evidence to the department which rebuts that presumption;

(3) "terminal days ratio" is the number of days spent in Alaska terminals divided by the total number of days spent in terminals everywhere;

(4) property valuations: owned transportation equipment must be valued at its average original cost, and rented transportation equipment must be valued at eight times the net annual rental rate in accordance with [AS 43.19.010](#) , Article IV.11, and [15 AAC 19.181](#) and 15 AAC 19.191;

(5) the "value" of owned real and tangible personal property means its original cost (see [AS 43.19.010](#) , Article IV.11, and [15 AAC 19.181](#));

(6) "original cost" means the federal tax base of the property plus the value of capital improvements to such property (see [15 AAC 19.181](#))

(7) "average value" of property means the amount determined by averaging the values at the beginning and end of the income year, but the commissioner will, in his discretion, require the averaging of monthly values during the income year if that averaging is necessary to reflect properly the average value of the land transportation company's property (see [AS 43.19.010](#) , Article IV.12, and [15 AAC 19.201](#));

(8) the "value" of rented real and tangible personal property means the product of eight times the net annual rental rate (see [AS 43.19.010](#), Article IV.11, and [15 AAC 19.191](#));

(9) "net annual rental rate" means the annual rental rate paid by the taxpayer less an annual rental rate received by the taxpayer from subrentals;

(10) "property used during the income year" includes property which is available for use in

the taxpayer's trade or business during the income year;

(11) "interstate mobile transportation equipment" means any automobile, truck, or tractor trailer engaged in interstate commerce over an Alaska surface highway system or any railroad equipment engaged in interstate commerce over or on an Alaska rail line.

History -

Eff. 3/31/82, Register 81

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.071](#) (b)

ARTICLE 10

SPECIAL RULES: CONSTRUCTION CONTRACTORS

15 AAC 19.1300

CONSTRUCTION CONTRACTORS IN GENERAL.

If a construction contractor is performing long-term contracts and is engaged in business both within and outside this state, the amount of income from sources within this state, including income from those long-term contracts, must be determined in accordance with 15 AAC 19.1300 - [15 AAC 19.1390](#) .

History -

Eff. 1/12/83, Register 85; am 9/26/84, Register 91

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.065](#)

15 AAC 19.1310

APPORTIONMENT OF BUSINESS INCOME.

A construction contractor's business income must be apportioned to this state by either the apportionment formula described in [15 AAC 19.1320](#) or the formula described in [15 AAC](#)

[19.1330](#) .

History -

Eff. 1/12/83, Register 85; am 9/26/84, Register 91

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.065](#)

15 AAC 19.1320

APPORTIONMENT FORMULA; PERCENTAGE OF COMPLETION METHOD.

The apportionment formula for a taxpayer reporting income under the percentage of completion method is a fraction

(1) the numerator of which is the sum of

(A) the property factor as defined in [AS 43.19.010](#) , Article IV.10 - .12, and [15 AAC 19.141](#) - [15 AAC 19.202](#) ;

(B) the payroll factor as defined in [AS 43.19.010](#) , Article IV.13 - .14 and [15 AAC 19.211](#) - [15 AAC 19.241](#) , except that compensation paid to an employee who performs construction contractor services is attributable to this state if the compensation is actually earned in the state, without regard to base of operations, residence of the employee, or place from which the service is controlled; and

(C) the sales factor as defined in [AS 43.19.010](#) , Article IV.15 - .17, and [15 AAC 19.251](#) - [15 AAC 19.302](#) , except that gross revenues derived from the performance of contracts are attributable to this state if the construction projects are located in this state; and

(2) the denominator of which is three.

History -

Eff. 1/12/83, Register 85; am 9/26/84, Register 91

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.065](#)

15 AAC 19.1330

APPORTIONMENT FORMULA; COMPLETED CONTRACT METHOD.

(a) The apportionment formula for a taxpayer reporting income under the completed contract method is a fraction

(1) the numerator of which is the sum of

(A) the property factor as defined in [AS 43.19.010](#) , Article IV.10 - .12, and [15 AAC 19.141](#) - [15 AAC 19.202](#) , and modified under (b)(1) and (b)(2) of this section;

(B) the payroll factor as defined in [AS 43.19.010](#) , Article IV.13 - .14, and [15 AAC 19.211](#) - [15 AAC 19.241](#) , and modified under (b)(3) and (b)(4) of this section, except that compensation paid an employee who performs construction contractor services is attributable to this state if the compensation is actually earned in the state, without regard to base of operations, residence of the employee, or place from which the service is controlled; and

(C) the sales factor as defined in [AS 43.19.010](#) , Article IV.15 - .17, and [15 AAC 19.251](#) - [15 AAC 19.302](#) , and modified under (b)(5) and (b)(6) of this section, except that gross revenues derived from the performance of contracts are attributable to this state if the construction projects are located in this state; and

(2) the denominator of which is three.

(b) For purposes of this section, the property, payroll, and sales factors must be modified as follows:

(1) the total rent expense attributable to contracts completed during the tax year and paid over the life of the completed contracts is included in the property factor;

(2) rents paid during the year attributable to incomplete contracts are not included in the property factor until the year of completion;

(3) the total payroll expense attributable to contracts completed during the tax year and paid over the life of the completed contracts is included in the payroll factor;

(4) payroll expense paid during the tax year which is attributable to incomplete contracts is not included in the payroll factor until the year of completion;

(5) the total gross revenues derived from contracts completed during the tax year are included in the sales factor; and

(6) gross revenues attributable to incomplete contracts are not included in the sales factor until the year of completion.

History -

Eff. 1/12/83, Register 85; am 9/26/84, Register 91

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.065](#)

15 AAC 19.1390

DEFINITIONS FOR [15 AAC 19.1300](#) - [15 AAC 19.1390](#) .

In [15 AAC 19.1300](#) - [15 AAC 19.1390](#)

(1) "construction contractor" means a person who undertakes or offers to perform to construct, alter, repair, move, or demolish, including excavation and site development, a highway, building, road, railroad, or any type of fixed structures;

(2) "long-term contract" means a contract performed by a construction contractor and which is not completed within the taxable year in which it is entered into.

History -

Eff. 1/12/83, Register 85

Authority -

[AS 43.05.080](#)

[AS 43.19.010](#)

[AS 43.20.065](#)